THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.15861 of 2001

Dated: 8th February, 2006

Between:

The Executive Engineer,

Public Health Division Eluru,

West Godavary District.

…..PETITIONER

AND

Kialkiyayi Venkata Satyanarayana.

….RESPONDENT

THE HONOURABLE SRI JUSTICE

N.V.RAMANA

W.P.No.15861 of 2001

ORDER:

This writ petition is filed seeking to call for and quash the records relating to Award passed in I.D.No.51/1997 dated
21-10-2000, on the file of Labour Court, Guntur published in G.O.Rt.No.756, Labour Employment Training & Factories (LAB.I) Department dated 24-3-2001, by which the labour Court set aside the termination of the respondent herein and directed the

petitioner to reinstate the respondent into service with continuity of service, but with 50% back-wages.

The main contention of the learned counsel for the petitioner is that the Labour court has not properly appreciated the evidence on record. According to the counsel, the respondent was engaged on daily wage basis for particular work and after completion of such work, his services were terminated, and as such, he is not entitled to the benefits of provisions of Section 25 (F) of the Act. He further contends that the respondent has not fulfilled the condition of working continuously for 240 days as prescribed in G.O.Ms.No.212 F & P dated 22-4-1994.

However, learned counsel for the respondent resisted the contention of the learned counsel for the petitioner and submitted that the respondent had worked as NMR Work Inspector in the petitioner Department from 01.01.1991 to 31.12.1993 and his services were terminated illegally without following the provisions of Section 25 (F) of the Act. He submits that the Labour Court after going through Ex.M.1, the statement showing the details of working days and payment of wages given to the workman, only held that the respondent has worked for 240 days within 12 months prior to the date of termination on 30.04.1993, and as such, the respondent was in continuous service of one year as required under Section 25 (F) of the Industrial Disputes Act, 1947 (for short 'the Act') and the termination of service of the respondent on 30.04.1993 is in violation of Section 25 (F) of the Act and hence prayed that the impugned order be sustained and the writ petition be dismissed.

Heard the learned counsel for the petitioner as also the counsel for the respondent and perused the impugned order.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India, to issue a Writ of Certiorari are very limited. In ***Surya Dev Raj v. Ram Chander Raj***[1], the apex Court held as follows:

> Certiorari, under Art.226 of the Constitution, is issued for correcting gross errors of jurisdiction, i.e., when a subordinate Court is found to have acted (i) without jurisdiction – by assuming jurisdiction where there exists none, or (ii) in excess of its jurisdiction by overstepping or crossing the limits of jurisdiction, or (iii) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no procedure specified, and thereby occasioning failure of justice.

As seen from the impugned order, the management examined MW.1 and MW.2 and got marked Exs.M.1 to M.6, and the respondent-workman was examined as W.W.1. The Labour Court, on proper appreciation of the entire oral and documentary evidence on record, particularly Ex.M.1, statement showing the details of working days and payment of wages made to the respondent, held that the respondent had worked for 240 days within 12 months prior to the date of his termination and directed the petitioner herein to reinstate the respondent into service and no exception can be taken thereto. Even otherwise also, this Court sitting under Article 226 of the Constitution of India, at any rate, cannot re-appreciate the evidence and the finding recorded by the labour Court.

The writ petition is devoid of merit and the same accordingly dismissed. No costs.

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(N.V. RAMANA, J.)

Date:8th February 2006.

GRK